

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION

IN RE:

CASE NO.

SARA LAMSON CUMBUS

05-01435-5-ATS

DEBTOR

ORDER REGARDING MOTIONS FOR RULE 2004 EXAMINATIONS

The matters before the court are the motions to conduct Rule 2004 examinations of the debtor and of the Matsco Companies and the motion for protective order filed by the Matsco Companies. A hearing took place in Raleigh, North Carolina on June 28, 2005.

Sara Lamson Cumbus filed a petition for relief under chapter 7 of the Bankruptcy Code on April 12, 2005. Dr. Cumbus is also the designated representative of a related chapter 7 debtor, Greenwood Veterinary Hospital, P.C., Case No. 05-01149-5-ATS. The Matsco Companies filed a motion to conduct a Rule 2004 examination of Dr. Cumbus, and Dr. Cumbus objected to the scope of the document production requested in conjunction with the examination. In addition, Dr. Cumbus contends that she is entitled to a witness fee for her testimony to the extent it relates to Greenwood Veterinary Hospital's case, as opposed to her own case.

Dr. Cumbus filed a motion to conduct a Rule 2004 examination of a representative of the Matsco Companies. Matsco objected, contending that all of its representatives are located in California, and it would

be entitled to travel and witness fees if it is required to attend an examination in North Carolina. Dr. Cumbus acknowledged that Matsco would be entitled to these fees, and withdrew her motion when she learned that no representative of Matsco would be in North Carolina to attend Dr. Cumbus' examination.

Based on the representations made at the hearing, the motion to conduct a Rule 2004 examination of Dr. Cumbus is **ALLOWED**. Dr. Cumbus is entitled to a \$40 witness fee for her testimony in connection with the Greenwood Veterinary Hospital case, but not for her testimony in her own case. Dr. Cumbus is required to produce only those documents in her possession, custody or control, and is not required to produce documents already turned over to the trustee in the Greenwood Veterinary Hospital case or otherwise not in her possession or control. Dr. Cumbus' motion to conduct a Rule 2004 examination of a Matsco representative was **WITHDRAWN** in court, rendering Matsco's motion for a protective order **MOOT**.

SO ORDERED.

DATED: June 28, 2005


A. Thomas Small
United States Bankruptcy Judge